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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

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THE PEOPLE,

Plaintiff and Respondent,

v.

HENRY ALFRED BERARD, JR.,

Defendant and Appellant.

C070300

(Super. Ct. No. CRF11125)

Defendant's appeal is subject to the principles of *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *People v. Kelly* (2006) 40 Cal.4th 106, 110. In accordance with *Kelly*, we will provide a summary of the offenses and the proceedings in the trial court.

**PROCEDURAL BACKGROUND**

On September 21, 2011, defendant Henry Alfred Berard, Jr., pled no contest to possession of pseudoephedrine with the intent to manufacture methamphetamine

(Health & Saf. Code, § 11383.5, subd. (b)(1)) in exchange for the dismissal of two other drug-related counts and a maximum prison sentence of four years.

On January 31, 2012, defendant was sentenced, pursuant to Penal Code section 1170, subdivision (h)(5)(A) (the Criminal Justice Realignment Act of 2011 (Stats. 2011, ch. 15), to the middle term of four years, to be served in the county jail. Defendant was credited with 312 days of presentence custody credits (208 actual, 104 conduct). The court also imposed various fines and fees as set forth in detail in the abstract of judgment.

### **FACTUAL BASIS FOR THE PLEA**

On February 26, 2011, at approximately 4:20 a.m., officers of the Yuba-Sutter Narcotics Enforcement Team were investigating an area in Olivehurst for methamphetamine manufacturing. While standing on the sidewalk, the officers smelled chemicals associated with methamphetamine manufacturing; the smells were emanating from a residence. The officers made an exigent circumstance entry and encountered defendant and Cherie Lee Godfrey, whom they detained. A search warrant was obtained and the residence was searched. Numerous items associated with the manufacture of methamphetamine were discovered, including stained coffee filters, ziplock baggies containing a red powdery substance, glassware, muriatic acid, three bottles of Heet, a hydrogen chloride generator and a hot plate.

### **DISCUSSION**

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no communication from defendant. We have undertaken an

examination of the entire record and find no arguable error that would result in a disposition more favorable to defendant.

**DISPOSITION**

The judgment is affirmed.

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MURRAY, J.

We concur:

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NICHOLSON, Acting P. J.

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HULL, J.